

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION - DETROIT**

IN RE:

Franklin D. Nivens,

DEBTOR.

CHAPTER 13
CASE NO. 23-49164-MLO
JUDGE MARIA L. OXHOLM

TRUSTEE'S OBJECTIONS TO CONFIRMATION OF CHAPTER 13 PLAN

NOW COMES the Chapter 13 Standing Trustee, David Wm. Ruskin, and objects to confirmation of the Chapter 13 Plan in the above matter pursuant to L.B.R. 3015-3(a) (E.D.M.) as follows:

1. The Plan does not provide that 100% of profit-sharing funds and/or bonuses received or entitled to be received during the pendency of the case be remitted to the Trustee as additional payments under the Plan as required by 11 USC Section 1325(b)(1)(B) and *In re Freeman*, 86 F.3d 478 (6th Cir. 1996).

2. Debtor has not provided to the Trustee a copy of Debtor's 2021 and 2022 Federal Income Tax Return as required by 11 USC Section 521 and Local Bankruptcy Rule 2003-2. Without that documentation it cannot be determined whether the Plan complies with 11 USC Section 1325.

3. Debtor testified at the First Meeting of Creditors that Debtor's residence is not insured. The lack of insurance places the estate at substantial risk of loss should the property be damaged or destroyed or should third parties suffer personal injury or property damage arising out of the property. Further, the lack of insurance constitutes a violation of the provisions of the Plan. Accordingly, the Plan does not comply with 11 USC Section 1325(a)(1).

4. The Trustee requires a copy of the deed for the real property located at 15428 Ward, Detroit, Michigan.

5. Schedule I includes a deduction for a voluntary contribution of \$85.92 per month to a retirement account. Debtor is not permitted to deduct these contributions in determining disposable income absent documentation that Debtor has been consistently making these contributions for the 6 calendar months

preceding commencement of the case. According, the Plan does not comply with 11 USC Section 1325(b). *See In re Davis*, 2020 WL 2831172 (6th Cir. 2020).

6. The Plan does not increase its funding upon the termination of the obligation of the vehicle in Debtor's mother's name. *See* 11 USC Section 1325(b)(1)(B) and 11 USC Section 1325(a)(3).

WHEREFORE, the Chapter 13 Standing Trustee requests this Honorable Court deny confirmation of the debtor's Chapter 13 Plan unless modified to meet these objections or, in the Court's discretion, dismiss the Chapter 13 Case pursuant to 11 U.S.C. §1307(c) or provide such other relief as this Court deems appropriate.

OFFICE OF DAVID WM. RUSKIN, STANDING
CHAPTER 13 TRUSTEE

Dated: February 27, 2024

By: /s/ Christopher P. Reilly
DAVID Wm. RUSKIN (P26803), Trustee
Christopher P. Reilly (P54168), Staff Attorney
Michelle M. Stephenson (P51653), Staff Attorney
1100 Travelers Tower, 26555 Evergreen Road
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**CERTIFICATE OF SERVICE OF TRUSTEE'S OBJECTIONS TO
CONFIRMATION OF CHAPTER 13 PLAN**

I hereby certify that on February 27, 2024, I electronically filed the Trustee's Objections to Confirmation of Chapter 13 Plan with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

The following parties were served electronically:

FREGO & ASSOCIATES - THE BANKRUPTCY LAW OFFICE
23843 JOY ROAD
DEARBORN HEIGHTS, MI 48127-0000

The following parties were served via First Class Mail at the addresses below by depositing same in a United States Postal Box with the lawful amount of postage affixed thereto:

Franklin D. Nivens
15428 Ward Street
Detroit, MI 48227-0000

/s/ Vanessa Wild

Vanessa Wild
For the Office of David Wm. Ruskin
Chapter 13 Standing Trustee - Detroit
26555 Evergreen Road, Suite 1100
Southfield, MI 48076-4251
(248) 352-7755